IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES

—

MINUTE ORDER

DEPT. 1A

Chambers Session: No appearances. February 26, 1993, present Hon. Ted Millard, Assistant Presiding Judge of the Orange County Superior Court, assigned by Chief Justice Lucas to hear and determine matters of judicial disqualification in this matter.

CASE NO. BC 054981. SHEH v. CHRISTOPHER, et al. PLAINTIFF SHIEH'S MOTION TO DISQUALIFY THE HONORABLE EDWARD Y. KAKITA.

The Court, pursuant to C.C.P. § 170.3 (c) (6), deems it unnecessary in this case to hold a hearing and decides the question of disqualification on the basis of the statements submitted.

Mr. Shieh has caused by be filed Statements of Disqualification against Judge Kakita in three (3) different cases that were assigned to him involving Mr. Shieh as either a plaintiff or defendant. This tripartite challenge to Judge Kakita is but one of many such challenges against different state and federal trial court judges that have made rulings that are not to Mr. Shieh's liking. He has unsuccessfully challenged the following state and federal judges on the grounds of bias: Judge Coleman A. Swart, Judge Xanthos, Judge Gadbois and Judge Davies. Judge Dickran Tevrizian who heard the challenge to Judge Gadbois termed the challenge "wholly frivolous and a sham," as well as describing Mr. Shieh as being "vexatious." That ruling was made on or about June 17, 1992, and can best be described as an

understatement. Mr. Shieh is a vexatious litigant whose campaign of litigation terror appears to be to accuse nearly every judge who has ever ruled against him of being "biased" or a "racist." Judge Kakita is but the latest target of his litigation terror.

It is well settled in this state that the expressions of opinion uttered by a judge, in what the judge conceives to be a discharge of his or her official duties, are not evidence of partiality within the disqualification statutes. (C.C.P. 170.2 (b); KRELING v. SUPERIOR COURT (1944) 25 C.2d 305, 310-311; GUARDIANSHIP of JACOBSON (1947) 30 C. 2d 312, 317-318.)

Section 170.3, subd. (c)(1) requires that the disqualification statement set forth "the facts constituting the grounds" for disqualification of the judge. Mere

conclusions of the pleader are insufficient. (In re MORELLI (1970) 11 C.A. 3d 415, 426.) In this particular challenge the allegation is that Judge Kakita "indicated quite strongly that he would not like having all the cases assigned to him and did not even want the within action assigned to him." The exact words used are unknown.

Mr. Shieh's challenge is devoid of any "facts" constituting any ground of disqualification. In short, no reasonable third party aware of the "facts" (as distinguished from conclusions) in this case would entertain a doubt as to the Judge Kakita's impartiality. Therefore, the request to disqualify Judge Edward Y. Kakita is denied.

Furthermore, since Mr. Shieh has demonstrated a vexatious pattern of challenging almost every judge who has

made a ruling against him and has yet had one sustained, Mr. Shieh and/or any present or future counsel for mr. Shieh is hereby ordered and directed not to file any furthr challenges for cause against Judge Kakita, without first seeking and obtaining leave from the Presiding Judge or his designee, upon a showing of good cause to believe that said judge is not impartial, to do so.

The Clerk is directed to give notice by copy of this Minute order.

IT IS SO ORDERED ON February 26, 1993.

THEODORE E. "TED" MILLARD, ASSISTANT PRESIDING JUDGE OF THE ORANGE COUNTY SUPERIOR COURT SITTING ON ASSIGNMENT BY THE JUDICIAL COUNCIL FOR LOS ANGELES COUNTY.